

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9521 OF 2012

Shaikh Shamshoo Shaikh Mohammad Ali,
Age: 47 years, Occ: Hamal,
R/o. Hamalpura, Nanded,
District Nanded.

...Petitioner

versus

1. The State of Maharashtra,
Through its Secretary,
Co-operation, Cotton and
Marketing Department,
Maharashtra State, Mantralaya,
Mumbai.
2. The State Minister,
Co-operation, Cotton and
Marketing Department,
Maharashtra State, Mantralaya,
Mumbai.
3. The Divisional Joint Registrar,
Co-operative Societies,
Latur Division, Latur.
4. The Deputy Registrar,
Co-operative Societies,
Taluka Nanded, Dist. Nanded.
5. Shaikh Pasha Shaikh Imam,
Age: Major, Occ: Hamal,
Ex-Chairman of respondent No.6
Society, r/o. Near Masjid,
Hamalpura, Nanded,
Dist. Nanded.
(R.No. 5 deleted as per
order dt. 1/3/13.)
6. The Nanded Labour Contract and
Hamal Majoor Co-operative Society
Limited, Nanded, through its
Administrator.

...Respondents

.....
Mr. R.T. Nagargoje, Advocate for petitioner.
Mr. D.R. Korde, A.G.P. for respondent/State.
Mr. Ram S. Shinde, Advocate for respondent No.6.
.....

CORAM : N.W. SAMBRE, J.

DATE : 6TH APRIL, 2015

ORAL ORDER :

The petitioner claims that there were in all 14 approved members of respondent No. 6 society and in the election held in 1987-88, 7 members were elected on the Board of Directors. Learned Counsel for petitioner would further urge that in view of show cause notice dated 13/12/2010 the District Deputy Registrar, (C.S.), Nanded on 08/04/2011 superseded Board of Directors in exercise of powers under Section 78(1) of the Maharashtra Co-operative Societies Act, 1960 (for short 'the Act') which order was upheld by the Divisional Joint Registrar (C.S.) Latur Division, Latur in appeal under Section 152 of the Act by an order dated 13/01/2012.

2. The Minister i.e. revisional authority by the impugned order dated 04/10/2012 has set aside the said orders. The revision before the State Government was preferred by one Shaikh Pasha Shaikh Imam, who claims to have been elected as Chairman of respondent No.6 Society.

3. The setting aside an order under Section 78 of the Act by the State Government was based on the election of respondent No. 6 society which was held on 24/06/2011.

4. The fact remains that respondent No. 5 original revision petitioner before the State Government has expired during the pendency of present petition.

5. The District Deputy Registrar (C.S.) in his affidavit dated 11/01/2013 in paragraph-10 has stated thus:

“10. The order dated 4.10.2012 was passed on the sole ground that, “though the managing committee of the society was removed by Respondent No. 4 vide order dated 08.04.2011, the society has elected a new Managing Committee in the General Body Meeting dated 24.06.2011. The appellate authority i.e. Respondent No. 3 has not considered the fact and as the Managing Committee which was removed by Respondent No. 4 has no existence after the election of new Managing Committee in General Body Meeting dated 24.06.2011. Hence, the order passed by Respondent No. 3 and Respondent No. 4 have become infelicitous.”

6. Mr. Nagargoje, learned Counsel for the petitioner while

questioning the order passed by the State Government would urge that, no elections as are mentioned in the order of the State Government were held and according to him, the order passed under Section 78 still holds the field. According to him, there has to be fresh elections of respondent No. 6 society.

7. Learned A.G.P. opposed the submissions based on the affidavit sworn by the District Deputy Registrar (C.S.) Nanded, as according to him, after elections, new body headed by one Shaikh Pasha Shaikh Imam i.e. respondent No. 5 is presently holding office in respondent No. 6 society. The communication to that effect issued by the District Deputy Registrar (C.S.) on 30/09/2014, which was delivered by learned A.G.P. during course of hearing of the petition, is taken on record.

8. Learned Counsel for respondent No. 6 society would urge that the elections, as are mentioned in the affidavit, of the society, so also, of the District Deputy Registrar (C.S.) were very much held and society is perfectly managing by the elected office.

9. Be that as it may, the fact remains that both the respondents i.e. respondent District Deputy Registrar (C.S.) and respondent No. 6 society have come out with a case of fresh

election.

10. In view thereof, in my opinion, the petition preferred by the petitioner does not survive, as such, stands disposed of as infructuous, with liberty to the petitioner to question the alleged elections which are sought to be questioned in the present petition during course of the hearing before the competent authority.

[N.W. SAMBRE, J.]